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out that the powers given here to the Governor or Governor-General are exercised by His Majesty in Council in England. All I say is, why should we not for 15 months longer continue in the present position? What do we gain by changing it and what does the Government gain by the change? I have been carefully considering the question and I also wished not to oppose the Bill if possible. But still I feel I will not be doing my duty and the House will not be doing its duty if this Bill is passed without protest. I think we all ought to protest against the Bill as it stands. It will be noticed that section 267 of the Government of India Act provides for the passing of a Bill for giving additional functions to the Services Commission. Any Bill which has to be passed should be in the nature of a supplementary Bill. I can quite understand that a supplementary Bill might be passed here giving additional power to the Services Commission. But what do we see in the present Bill? I would ask the Hon. Member in charge what additional functions are being given to the Services Commission. Having regard to the feeling in the country, the one additional function that the Member could have thought of would be to provide power in regard to the appointments under local bodies such as the panchayat officers, assistant panchayat officers and commissioners of municipalities. Charges of jobbery are being made everywhere. How far the charges are true, I do not know. The ground for making the charges should be taken away. I thought some more power would be given to the Commission in regard to these matters. I shall not weary the House any longer but I should merely repeat what I said that there is no more reason to put this Bill on the Statute Book than for introducing the Tobacco Bill, as referred to by Sir Patro. No doubt the reserved half honestly feels that the Bill is necessary in the interests of the country. But it is not responsible to the public. The transferred half does not consider its responsibility to the public and as was pointed out by others it drives more nails into the coffin of the party."

The motion of Mr. Basheer Ahmed Sayeed was put and carried and the Bill was referred to the Select Committee.

IV.—A BILL FURTHER TO AMEND THE MADRAS IRRIGATION CESS ACT, 1865, AND THE MADRAS LAND ENCROACHMENT ACT, 1905, FOR CERTAIN PURPOSES (BILL No. 16 OF 1935).

* The Hon. Mr. C. A. Souter :—"I beg to introduce a Bill [a] further to amend the Madras Irrigation Cess Act, 1865, and the Madras Land Encroachment Act, 1905, for certain purposes (Bill No. 16 of 1935) and move that the Bill be taken into consideration at once.

"This Bill, Sir, is merely for the purpose of transferring to the Board of Revenue the power of passing final orders on two small points. As regards the Madras Irrigation Cess Act, under section 1, clause (b), the question arises as to whether irrigation is beneficial to or sufficient

[a] Published in the *Fort St. George Gazette*, dated 24th September 1935.

for the requirements of the crop on the land. And under the Act as it stands at present this decision is subject to the control of the Collector, the Board of Revenue and the Government. Now, ordinarily speaking, the officer who determines whether any flow of water is sufficient for the crop or not is the Deputy Tahsildar or the Tahsildar. His orders are subject to the control of the Revenue Divisional Officer, the Collector, the Board of Revenue and as the Act stands at present the Local Government. Now, Sir, in this case the question whether water is sufficient for a crop or not is one purely of fact and so far as the Government goes, the Government must accept the facts as stated by the officers who report on it. It seems to Government that the Board of Revenue is a sufficiently high authority to determine the fact as to whether a particular supply of water is sufficient for a crop or not. But it is somewhat absurd that what really is after all almost a petty matter of fact should under the present law be subject to the control of the Local Government. And similarly in the Land Encroachment Act, matters connected with it are part of the ordinary revenue administration. There again we start with the Tahsildar, the Revenue Divisional Officer, or the Special Officer appointed under the Land Encroachment Act, again the Collector, then the Board of Revenue and as at present up to Local Government. Here again it seems to Government that it is unnecessary that those cases should ever come to Government. In fact, Sir, in my experience I cannot recollect a case in which Government has had to intervene in such matters. And quite apart, therefore, from the merits of this proposed delegation of authority to the Board of Revenue, the provision in the present Act is, as experience has shown, unnecessary. And it is for these reasons that we propose that these two Acts should be amended in accordance with this Bill. Sir, with these words I beg to introduce the Bill and move that it be taken into consideration at once."

The Hon. Mr. G. T. H. BRACKEN:—"I second it."

* Mr. K. A. NACHIYAPPA GOUNDER:—"Sir, I beg to move the motion standing in my name—

'*that the Madras Irrigation Cess and Land Encroachment (Amendment) Bill (No.* 16 *of* 1935) *be circulated for eliciting public opinion thereon.*'

"Though it is a small Bill, Sir, having only two or three clauses, I am constrained to make this proposal because it is a measure which affects the ryot population and a right which has been enjoyed by them ever since the Act came into force, in 1865, that is for the past 70 years. All these 70 years the ryots had recourse to this remedy whenever they felt that their case was not suitably dealt with even by the higher authorities subordinate to Government. When such a privilege is to be affected, though it is a very small Bill, it is quite necessary that people from whom we are taking away this privilege should be made aware

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of this fact. This Bill has been published in the *Fort St. George Gazette* on the 24th September 1935. They could have published it in the district gazettes only towards the end of this month and as such people would not have sufficient opportunity to get this information and make their representations with regard to this matter. Since this is a measure which takes away their right which they have enjoyed, it is quite proper and appropriate that they should be given sufficient opportunity to express their views.

"I am not aware, Sir, whether a good number of cases go up to Government year after year. In order to get information on that point and in order to satisfy myself as to whether the Government would be justified in taking away this appellate right, I have put in interpellations asking for figures with regard to appeals brought before Government under these sections during the last ten years. I am sorry I could not get the figures since the question was given very late as short notice question. If correct figures are given and if they reveal that this appeal right was not enjoyed, then Sir, I think I may be in a position to decide whether I may allow this legislation to pass through. Otherwise I will have to press this motion. 3-30 p.m.

"As regards irrigation, Sir, we have got a lot of complaints to make and we are not very much satisfied even with the existing Act. When such is the case, if Government are going to take away the right of appeal, I need not state what suffering it would cause to the ryots. We often feel, sir, that the local authorities are not capable of giving that careful and sympathetic consideration to our complaints which the Government on account of their contact with us, representatives of the people in the Legislative Council, are able to give. This is not in any way a trouble or additional work to Government. Since the Hon. the Revenue Member himself says, there are no such appeals forthcoming. I do not see any reason why they should take away this provision from the statute book. Though it is not quite so useful in the day-to-day administration, still it may be in a few per cent of the cases the ryot would like to approach the Government for a reversal of the orders of the subordinate officers. After all, this would not throw much work on the Secretariat and why should such a small privilege be refused to the ryot? Though this is a short Bill it involves a principle; and I would insist that it shall be circulated for eliciting public opinion so that it may come back to us with the considered opinion of the general public, who one day might think that this sort of amendment to the Act would put them to much trouble and they are greatly handicapped from getting justice from the Government. With this object in view, Sir, I propose that this measure be circulated for eliciting public opinion."

Mr. P. V. Krishnayya Choudari:—"In seconding the motion of my Friend, Mr. Nachiyappa Gounder, I have got to bring to the notice of the Hon. the Revenue Member one fact and also elicit some

information. Though the Bill is a very small one, namely, to omit the word 'Government' it involves a lot of privileges which may be affected. In the future Legislative Council most of the ryots will have their representatives as members of the Cabinet, and if the Bill is passed, the ryots could not bring their grievances to their representatives but they will have to bring them before the Board of Revenue which under the new constitution is not to be under the direct control of the Ministers except for administrative purposes. I am led to think it is probably with that idea the Government has brought forward this Bill. For instance, take the water-cess which they have fixed at Rs. 6-4-0. If such things are going to be fixed by the Board of Revenue, I would object to this Bill."

The Hon. Mr. C. A. SOUTER:—"Water-cess has not been entered into at all."

Mr. P. V. KRISHNAYYA CHOUDARI:—"I do not know, Sir; anyhow, I will second the amendment."

Mr. K. P. RAMAN MENON:—"I quite appreciate the view taken by the Hon. the Revenue Member that appeals should come to an end with the Board of Revenue, but I am not sure as to the residuary powers of the Government or whether that power which it inherent in the Government is taken away by the process of amending this Act and making the appeal to the Board of Revenue final."

* The Hon. Mr. C. A. SOUTER:—"I may assure the hon. Member that the power of Government is not taken away. What the Act says is whether water is beneficial to and sufficient for the requirements of the crop is subject to the control of the Board of Revenue and the Government. So that has not taken away from the Government their general powers of control over the Board of Revenue."

* Mr. G. R. PREMAYYA:—"Of all the Revenue Members we have had from 1920, I think the present Member is the cleverest: he knows how to win the people to his side; his good manners generally win the favour of the opposition. The Tobacco Bill has a sting in it, but that sting has not been perceived by the opposition. Now, if powers are delegated to the Revenue Board, there is one difficulty. The Local Government is to dictate the policy and the Revenue Board is to act up to it; but if the Revenue Board is allowed to dictate rules, I think there will be a lot of difficulty. The Hon. the Revenue Member has just now said that he has not seen any case of appeal come up before him for disposal. Why then should they try to give that power to the Board of Revenue which has heavier work? We cannot approach the Collector or the Revenue Board easily. The Hon. the Revenue Member with his years of service will be a fit person to dictate policy. I therefore would like to see this power retained as in the original Act."

* Mr. K. A. NACHIYAPPA GOUNDER:—" Sir, in this matter I will have to explain my position to the House. The Hon. the Revenue Member said that it does not take away the rights; it is simply a question of sufficiency of water for the crops. But the words ' beneficial to ' give some trouble. I shall just give an illustration of what is going on in my district. Water taken from the river Cauvery for irrigation purposes especially of the wet lands has been enjoyed by the ryots and mirasidars and landholders of the proprietary estates in that area, so far without payment of any water-rate whatsoever. It is taken by means of a korambu for which they pay a separate cess. The whole thing if managed that way will not be putting the Government to any expenditure in this behalf. But the Government have now come forward to levy tax under the Irrigation Cess Act; they say that the Mettur dam is beneficial to such areas, and claim that they are perfectly at liberty to increase the water-rate. That question, I am afraid, is involved in this section. And if the right to appeal to Government is taken away, the ryots will be put to hardship and will have to curse their stars for not being fortunate enough to have this section in the Act for some more time. They will have to confine themselves to appealing to the Collector and the Board of Revenue and they could not have the privilege of rushing up to Government. With regard to this, there is also a legal issue involved. The mirasidars of that area are having legal consultations and are contemplating to rush to court, because the Government themselves have considered the question and decided with regard to the lowering or raising of the water-rate in that area. This section involves the question whether water taken from certain sources is beneficial to the crop. Such cases of great importance will be covered by this section. So I am much concerned in getting the Bill published for eliciting public opinion. That opinion would tend to make Government decide whether to retain the provision in the Act or not. With that object in view I will have to press my motion."

The motion that the Bill be circulated for eliciting public opinion thereon was put and lost. 3-45 p.m.

The main motion was put and carried and the Bill was taken into consideration.

Clauses 1, 2 and 3 were put and carried.

The Preamble was then put and carried.

* The Hon. Mr. C. A. SOUTER:—" Sir, I now beg to move that the Bill be passed into law. In doing so, Sir, I just like to say that the apprehensions of hon. Members, particularly of Mr. K. A. Nachiyappa Gounder are unjustified. There is no question in this Bill of interfering with the water rights of anybody. This Bill only seeks to make the Board of Revenue which, as I have said, is always, subject

to the final control of Government, the final authority on the matter of fact as to whether in a particular case a certain amount of water is adequate or is essential to the irrigation. This matter is settled in 99 cases out of 100 by the deputy tahsildar exactly in the same way as in land encroachments. If, as it may sometimes happen, there is a particularly hard case, this Bill does not prohibit anybody from addressing the Government. The Government, if it sees fit to do so, as it may in land encroachment cases, call for papers and so on. It does not take away from the Government the power of control over its subordinates in any way. I stated I think that since I have been here, I have heard no case of that kind. But a case under the Land Encroachment Act concerned with a temple did arise. In matters of this kind we have to go upon the reports of the local authorities. We got a report from the Collector concerned and on that report, without going to the place and seeing the encroachment, we passed orders. That is all that is happening now. Exactly the same thing will happen hereafter. An hon. Member said that if there is no work here, why unnecessarily meddle with the existing Act? That argument will cut both ways. Why should unnecessary legislation remain on the statute book?"

The Hon. Mr. G. T. H. Bracken :—"I second it."

The motion was put and carried and the Bill was passed into law.

V.—A BILL FURTHER TO AMEND THE INDIAN REGISTRATION ACT, 1908, IN ITS APPLICATION TO THE PRESIDENCY OF MADRAS FOR A CERTAIN PURPOSE (BILL No. 18 OF 1935).

* The Hon. Mr. P. T. Rajan :—"Sir, I introduce a Bill [a] further to amend the Indian Registration Act, 1908, in its application to the Presidency of Madras for a certain purpose (Bill No. 18 of 1935) and move that the Bill be taken into consideration at once. In doing so, it is needless for me to detain the House long. Sub-sections (2) and (4) of section 89 of the Indian Registration Act, 1908, require that certificates of sale of immovable property granted by courts and Revenue officers should be sent to the registering officer and that he should file them in his Book No. 1. Under the present Bill it is proposed to extend the same provision in so far as certificates of sale granted by officers of the Madras Co-operative department under section 17 of the Madras Co-operative Land Mortgage Banks Act, 1934 and under the rules made under the Madras Co-operative Societies Act, 1932 are concerned. The intention of the Bill is to ensure the completeness and continuity of the record of title to immovable property kept in registration offices. I hope the House will accept the Bill."

The Hon. Diwan Bahadur S. Kumaraswami Reddiyar :—"I second it."

[a] Published in the *Fort St. George Gazette*, dated the 15th October 1935.